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The U.S. Sex Workers' 15 Rights Movement

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People are often surprised to learn that sex workers can and do engage in organizing and activism. Those with experience selling sex, erotic dancers, cam workers, professional BDSM practitioners, online erotic content producers, and pornography performers are indeed demanding labor rights, legal rights, and human rights across the globe.¹ Organizations and individual activists create support networks, teach harm reduction, provide (or provide connections to) health clinics and housing services, and generally act as “nodes of resilience and care” in a context of discrimination, violence, and stigma.² Sex worker activists lobby international organizations such as the United Nations and federal and local legislatures. They demand the right to work, safety protections, freedom from violence including police violence, an end to criminalization, and basic human dignity. In some countries, their efforts, often in solidarity with non-sex workers’ rights groups, have been successful in getting laws changed, such as the New Zealand Prostitutes Collective’s push to decriminalize prostitution in 2003 and the Scarlett Alliance and Vixen Collective’s success in Victoria, Australia in 2021.³ In the United States, the movement has been much slower to win these kinds of legal rights, but in recent years, sex workers’ rights organizations are growing in number and support and accruing some important legal wins.

This chapter discusses the sex workers’ rights movement in the United States in transnational context. We provide a short history, identify leading

movement organizations, and discuss their shared goals, challenges, successes, and failures since the 1960s.

As with most social movements, there is no singular Sex Workers' Rights Movement. The Global Network of Sex Worker Projects lists more than 301 member organizations in 98 countries.⁴ This is likely an undercount, since sex workers' rights organizing today is a mix of savvy, local, often loosely connected actions, campaigns, and organizations. New organizations and efforts pop up regularly across the U.S. and globally, like the 2018 founding of the Black Sex Workers Collective in New York and Decrim Now DC in Washington, DC. It is also hard to keep count because many laws criminalize sex workers' use of the Internet, including whether they are using it to screen clients, connect with other sex workers, or engage in activism.

Many of the organizations are run by and for current and former sex workers, like the St. James Infirmary in California, local chapters of the Sex Workers Outreach Project, and HIPS in Washington, DC (Honoring Individual Power and Strength, formerly Helping Individual Prostitutes Survive). Others are run by allies, like the Sex Workers Project in New York City, a legal aid organization for sex workers and sex trafficking survivors. Some sex workers' rights organizations are incorporated as official non-profits or non-governmental organizations, both as a sign of professionalization and legitimacy and to allow for certain tax advantages like the ability to receive tax-deductible donations. Some are simply social media pages and texting networks. Some follow a radical racial justice approach to equality for sex workers, whereas others adhere to a more mainstream human rights approach. Most are a mix of radical and mainstream elements. While sex workers' rights organizations are more widespread, have more resources, are involved in more coalitions and, thanks to the Internet, are able to network better than ever before, most sex work activists in the U.S. fund their efforts without major philanthropic support. This is a stark contrast with the large and well-funded organizations internationally that are fighting to criminalize sex work. Sex workers' rights organizations have had to fight hard both to be heard on a policy stage and to survive and thrive in groups whose members' work is highly stigmatized and/or criminalized.

Tactics vary, from outreach to workers on the street (providing coffee, condoms, dental dams, lube) to mental health services, non-judgmental health care, housing and food support, and legal aid. Support services can include drop-in discussion circles specifically for transgender, undocumented, or cisgender male sex workers. Other efforts focus on legislative change, including training on political lobbying and activism, media engagement and representation, and protest actions online and in person. Their shared goals include:

- decriminalization of prostitution
- the right to work free from victimization by the state, management, local residents, and clients
- the right to family, including child custody
- access to the same health care and housing as others
- the right to access "straight" work (non-sexualized jobs) when they want; criminal convictions make it hard to get jobs, and a period of sex work creates a gap in conventional employment and may result in a worker being stereotyped as unemployable⁵

Given the wide range of laws affecting sex workers throughout the globe, activists work for these goals in a wide variety of ways, as we will see in this chapter. Many work under a "double repression: as sex workers and as sex workers' rights advocates."⁶ Activists work in varying legal contexts where many, if not all, aspects of their work define them as criminals or at least highly stigmatize them. The U.S. is one of the few industrialized countries that criminalizes all aspects of the sale of sex (save Nevada's legal, rural brothels).

"The World's Oldest Profession"

Sex work has been a part of economic life throughout history (see Chapter 2), yet the history of sex worker activism is just beginning to be written. European brothel workers formed guilds, went on strike, wrote letters, and held street protests to protect their rights as far back as the Middle Ages.⁷ As industrialization spread across the globe, prostitution became a key socio-economic component of developing cities as well as along the mining frontiers in the North American West, South America, and Africa.⁸ Many cities and frontier towns had thriving brothel districts, and prostitution was openly tolerated. In these places, sex workers frequently stood up for their rights. For example, in one Nevada mining town in 1906, sex workers were organized by the Industrial Workers of the World and several prostitutes tried to impeach the Justice of the Peace, the district attorney, and a policeman for collecting illegal fees.⁹

By the middle to end of the 1800s, sex workers in many parts of the world faced growing efforts to criminalize their activity. Upper- and middle-class reformers sought to control independent, young, and single working-class women, especially racially and ethnically marginalized women,¹⁰ and enforced anti-prostitution laws as part of larger racist and anti-immigrant

campaigns. In 1869 Canada passed anti-prostitution vagrancy laws and in 1864 the U.K. passed the Contagious Diseases Acts targeting sex workers. In the U.S., Chinese immigrants, and specifically sex workers, were the first group banned by federal immigration laws (under the Page Act of 1875). The Page Act, in concert with state laws banning people from marrying outside their race, was designed to protect the "purity" of the white race by preventing intermarriage with Chinese immigrants. Similar laws were enforced along the U.S.-Mexico border against women believed to be sex workers.¹¹

Turn of the century social purity activists and vice squads like the Anti-Saloon League patrolled neighborhood bars, dance halls, and "interracial establishments" on the U.S. east coast, searching for "loose" women – unmarried working-class women including black migrants from the southern United States, immigrant women, and any woman without a male escort.¹² In the U.K. in the late 1800s, newspapers sensationalized stories of unscrupulous men trafficking poor white women into sexual servitude. An almost identical campaign in the U.S. targeted immigrant men as traffickers. Historians have found that these stories were often fabricated by reporters.¹³ But stories of sex trafficking played into enough cultural anxieties to fuel national and local laws that criminalized prostitution.

Sex workers did fight back. In 1917, 200 sex workers marched in San Francisco to end brothel closures. In 1915, the Montreal Mission for Friendless Girls in Montreal's red-light district provided a place for sex workers to gather, socialize and organize – the first sex worker labor organizing effort in Canada.¹⁴ From the 1920s to 1940s, in response to racist moral panics and growing labor rights activism, U.S. city and state governments ended regulation of red-light districts and criminalized prostitution altogether.

The Modern Movement: 1950–2000

From the 1950s to 2000s, marginalized groups around the world coalesced into social movements demanding labor rights, women's rights, and sexual rights. Such movement activism inspired sex workers to organize. International Whores' Day, now celebrated around the world, began on June 2, 1975, when 100 French sex workers occupied a church to demand the release of arrested sex workers and an end to fines and police harassment. EMPOWER Thailand (Education Means Protection of Women Engaged in Recreation) was founded in 1985 and became active in international discussions on prostitution and tourism. Today EMPOWER offers

a range of classes and support for sex workers. The Scarlet Alliance is a government-recognized organization that has been active in Australia since 1989. Members network with governmental and non-governmental bodies by virtue of sitting on the Commonwealth Attorney Generals' Roundtable on People Trafficking and occupying a board seat with the Australian Federation of AIDS Organizations. The British-based International Union of Sex Workers was founded in 2000 and continues to offer union membership to U.K. sex workers. The Durbar Mahila Samanwaya Committee (DMSC), founded in 1995 in India in the aftermath of a 1992 HIV/AIDS intervention campaign, has 65,000 members, including cisgender and transgender sex workers. DMSC works in collaboration with doctors and locals to decrease HIV infection rates and identify and help underage and trafficked women leave the industry.¹⁵ In 2001, more than 25,000 sex workers gathered to celebrate what is now known as International Sex Worker Rights Day on March 3. In Africa, the Sex Workers Education and Advocacy Taskforce was founded in 1994. In China and Hong Kong, Zi Teng began offering sex workers information on their rights and health services in 1996, in addition to a 24-hour emergency hotline. RedTraSex, the shorthand for Red de Mujeres Trabajadores Sexuales de Latinoamérica y el Carib, was formed in 1997 by sex workers in Caribbean and Latin American countries.

By the end of the 1990s, thanks to efforts by these and other groups, many countries began to relax their prostitution laws. The Dutch organization The Red Thread successfully lobbied in 1999 to lift a brothel ban and grant prostitutes labor rights, although local authorities had leeway to impose some regulations. In 1979 the Australian Prostitutes Collective helped decriminalize sex work in New South Wales and in 1995 helped pass laws that regulate brothels in the same way as other businesses.¹⁶ The New Zealand Prostitutes Collective successfully lobbied for decriminalization in New Zealand in 2003. Today, various types of prostitution are legal in several European and South American countries and in several Australian states.¹⁷

International NGOs such as the Global Alliance Against Trafficking in Women and the Network of Sex Work Projects fought successfully to get sex worker and migrant labor rights on the international agenda. They brought attention to the impact of an increasingly globalized labor market on a variety of industries where exploitative or coercive practices victimized migrant workers, including agriculture and farming, domestic work, and sex work.¹⁸

The contemporary U.S. "prostitutes' rights movement," as activists referred to it decades ago, first emerged in the 1970s. These activists reacted

against branches of the feminist movement that sought to abolish prostitution and pornography. COYOTE (Call Off Your Old Tired Ethics) was the first U.S. organization of what now constitutes the contemporary movement, founded in 1973 in San Francisco by Margo St. James. St. James' organized popular "Hookers Balls" in the 1970s (sexualized masquerade balls in San Francisco), and a public-access TV show "Streetwise" with sexologist Carol Leigh in the late 1990s – both of which emboldened sex workers. Carol Leigh is credited with coining the term "sex work" at the 1978 Women Against Violence in Pornography conference to describe the diversity of labor within the industry and as an alternative phrase to the carceral language of "prostitution."¹⁹ In these early days, a few local chapters of the National Organization for Women supported COYOTE, though that support later diminished, especially at the national level.²⁰ Many organizations that were founded in subsequent years credit COYOTE as their inspiration, and were mentored by, or at least, in conversation with, COYOTE's directors.²¹ A healthcare and social service center, the St. James Infirmary, was established in 1999 in San Francisco as a collaboration between COYOTE and the Exotic Dancers Alliance (established in 1993). Norma Jean Almodovar, who became an escort after leaving the police force, founded the International Sex Worker Foundation for Art, Culture, and Education in 1997. While during this time the U.S. movement had not yet gained widespread popular support, formed reliable alliances with mainstream, powerful organizations, or convinced authorities to decriminalize sex work,²² its leaders emboldened sex workers and sowed the seeds of growth in the next decades.

Activists know that victories often generate backlash. And the backlash against sex workers' achievements was fierce. We now turn to the effects on the sex workers' rights movement of the prostitution-abolitionist anti-trafficking movement.²³

Backlash – Abolitionism, Trafficking, and "End Demand"

By the turn of the 20th century, it looked like the global sex workers' rights movement was making headway. The sex industry itself was growing (likely both in actual numbers and in attention to sexual labor) and throughout the globe some aspects of the sex industry were becoming more economically mainstream.²⁴

However, during the 1990s, feminist activists who had fought pornography and prostitution in the 1980s became increasingly alarmed by sex

workers' successes around the globe. They strategically changed course, redirecting the bulk of their efforts from trying to change laws in the largest countries to framing the debate as a fight to save young women and children in "less developed" nations. Women and children, they argued, were being transported against their will, from poor to rich countries to meet a growing international demand for sex. In spite of disagreements over other feminist goals like reproductive justice, these activists built coalitions with various Christian right organizations to fight prostitution by reframing the debate away from labor trafficking and labor rights to "sex trafficking" and "sexual slavery."²⁵

To be sure, sex workers' rights activists around the globe had been fighting trafficking for decades. But they framed this fight as a right to free labor: the right to be free from exploitative employers or smugglers and to work where they wanted. However, as feminist and Christian organizations began to lobby governments and international organizations, framing prostitution itself as the problem, they clashed with sex workers over definitions of trafficking and the best ways to fight it. These neo-abolitionists fought two battles, first to reframe all sex work as coercive sex trafficking and increase criminal, civil, and economic penalties against a widened definition of sex traffickers, which often included sex workers themselves who didn't claim to be victims. Second, they sought to focus policies less overtly on sex worker "victims" and instead on the criminalization of clients and third parties.

Passage of the U.S. Trafficking Victims Protection Act of 2000 (TVPA) was a major victory for neo-abolitionists, who enjoyed disproportionate influence on the bill's many components and subsequent amendments and reauthorizations. It ushered in an era of increased criminalization of prostitution across the globe and the law's subsequent re-authorizations institutionalized a neo-abolitionist approach to prostitution. TVPA created a new federal crime of *trafficking* as the exploitation of an adult for sex or labor using "force, fraud, or coercion" or the facilitation of prostitution by any individual under 18. The immigration component authorized special temporary visas to foreign nationals who, under stiff criteria, were found to be victims. It empowers a U.S. State Department office to monitor and rate how well other countries are fighting trafficking with direct implications for foreign aid to those countries. And it provides a huge amount of funding for domestic and foreign anti-trafficking efforts, efforts largely channeled into law enforcement efforts to fight prostitution. Subsequent amendments and especially enforcement practices strengthened the focus on domestic sex trafficking and muddied the distinction between trafficking and consensual

sex work. And government funding explicitly excludes any sex workers' rights organizations by prohibiting money for programs that promote, support, or advocate "the legalization or the practice of prostitution" or for organizations that do not have a policy that explicitly opposes prostitution.²⁶

Since then, this "oppression paradigm," as Ron Weitzer calls it, "has been used successfully by prohibitionist forces to convince governments to pass punitive laws" and outlaw the sale of sex.²⁷ The TVPA redefined the fight against trafficking from labor rights for non-citizens and marginalized workers in a transnational economic system to focus instead on crime control targeting "bad people" who were involved in sex trafficking, doing more than any single bill to change the discourse around sex work globally.²⁸ Coupled with a dramatic reduction of social service funding that had already occurred, TVPA forced programs that addressed social and economic problems into partnerships with the criminal-legal system. The new law also propelled the U.S. into a major role internationally, effectively controlling aid to enforce a neo-abolitionist approach.²⁹

The TVPA provided financial backing to organizations that see sex work as violence against women and that maintain and reify the conflation of sex work and sex trafficking. Organizations like the Polaris Project have grown powerful from TVPA funding, and in the U.S. they write model bills, lobby state legislatures, and train and fund police departments to fight sex trafficking/sex work. These organizations fund media campaigns and have large public relations departments that promote their messaging to the public and policy makers. Sex workers' rights organizations are explicitly excluded from any anti-sex trafficking funding despite being on the "front lines" of sex industries, and remain financially and organizationally disadvantaged.

By defining all sex workers as victims in need of saving, regardless of consent, critics say this "white savior" model is racist, anti-immigrant, sexist, and neo-colonial in its outcomes.³⁰ TVPA funds have created a "rescue industry" of domestic and international non-profits, government agencies, researchers, and law enforcement.³¹ The TVPA also restricts migration.³² In the U.S., undocumented immigrant survivors of sex trafficking may apply for a "T-Visa" to stay in the country. However, the process of securing this assistance has proven challenging without the help of a TVPA-funded non-profit like the Salvation Army. Further, a trafficking victim must help prosecute their trafficker or be deported or held in deportation facilities. Less than a thousand T-visas were granted between 2001 and 2007, according the 2007 federal government's *Trafficking in Persons Report* (the Report no longer states how many T-visas are awarded annually). According to Refugees International,

"Congress capped the number of T visas at 5,000 per year, but never more than one-third of that total have been provided in any given year."³³

Over the years the TVPA's focus on "Prosecution, Protection, and Prevention" has been used to pass a wide range of state-level legislation that has widened the definition of sex trafficking and increased penalties against sex traffickers. Many states have passed anti-trafficking laws that make ill-defined "advancing prostitution" a crime and encouraging the arrest of trafficking victims to "save" them. The TVPA provides a great deal of funding to U.S. police departments to identify and arrest traffickers. Human trafficking intervention courts allow some of those arrested for prostitution to avoid jail or prison time by requiring participation in exit programs, therapy, money-management courses, or other trainings or workshops offered by non-profits or social service agencies.³⁴ Overall, the TVPA has ensured that a "criminal justice-social services alliance" forces anyone seeking services to interact with police. Not surprisingly, the targets of these laws are often poor and other marginalized groups.³⁵

The neo-abolitionist movement has successfully passed laws criminalizing the "demand" for prostitution in several European countries. The first "end demand" law passed in Sweden in 1999. Over the next few decades, Iceland enacted an end-demand law in 2009 and went on to ban strip clubs in 2010 (Iceland already had a long-standing pornography ban). Since then, Norway, Canada, Northern Ireland, France, Ireland, and Israel have criminalized clients. Sex workers' organizations have been very critical of "end demand" laws for criminalizing workers' sources of income, exposing them to police control, and ignoring the protections that sex workers have fought for. Research has generally found that these policies do more harm than good to sex workers.

In this context, sex workers' rights activists have undertaken a dramatic shift in how they talk about the violence they do experience; how they express their understandings of oppression, inequality, and discrimination; their demands for labor rights; and how they make sense of their experiences as activists and advocates.

Activism in the Twenty-First Century

While the neo-abolitionist movement has spurred global attention to prostitution in ways that have increased surveillance and criminalization of sex work, it has also fueled a significant rebound in sex workers' rights activism. Sex workers in the U.S. have organized with renewed effort since



Figure 15.1 Black Sex Workers Liberation March, New York, 2020

Source: Photo courtesy of Hailey Asquin.

the early 2000s. A wave of new activists connected with the movement foremothers who inspired them: Margo St. James, Carol Leigh, and Robyn Few, among others. What we see today is a diverse movement that engages in lobbying at the local, state, and national levels; uses art to promote awareness; and organizes street protests in support of decriminalization, as portrayed in Figure 15.1.

Technological developments have both transformed the movement and created new battlegrounds. The Internet, email, and social media have brought sex workers together, and together more quickly than ever before. #Hacktivism is now at the forefront of safety because so many workers use platforms and e-connections as part of their screening techniques. Being online facilitates harm-reduction practices. At the same time, the Internet's power is increasingly used as a tool of surveillance by neo-abolitionists.

Sex Worker Art and Activism

From the punchiness of protest signs to performance art that gets media attention to Instagrammable drawings, the sex workers' movement uses art as activism. In fact, art can be a workers' first foray into formal networking and educational outreach. In struggling to counter "Law & Order" style victim narratives and, at the same time, fighting the simplistic conflation of sex work and sex trafficking, art has become a powerful medium of educational outreach and community building for people engaged in sexual labor. The Sex Workers Art Show, a nationally touring showcase of art in a range of mediums (paintings, written word, burlesque, performance art), ran from 1999 to 2009, emblematic of third-wave feminism's focus on storytelling as consciousness-raising and the body as a site of exploration and self-expression. They often performed at college campuses, presenting to thousands of students over the show's ten-year span. Carol Leigh founded the San Francisco Sex Worker Film and Arts Festival in 1999, and it is still active today as an international showcase of a variety of art and performances by sex workers.

Annie Sprinkle's *Herstory of Porn* DVD, directed by Sprinkle herself, a porn performer and performance artist, alongside Carol Leigh, with commentary by adult film scholar Linda Williams, was released in 1998. It was a sign of the strategic use of new mediums to share how sex workers can be feminist, and how smut can be artistic. More direct sex worker mediums emerged, like *Whorezine* (1991 to late-1990s), *Danzine* (mid-1990s to 2003), and *Spread Magazine* (2005 to 2011) – providing print media spaces for sex workers and their allies and accomplices to share resources and experiences. The now-shuttered Red Umbrella Project (established 2009), a direct service support organization in New York, offered writing workshops to sex workers, who then presented their stories on stage as the "Red Umbrella Diaries," resulting in four volumes of *Prose & Lore: Memoir Stories About Sex Workers* and a 2014 documentary featuring one night of the Diaries at the famous Joe's Pub theater in New York.

A large counter-conference to the prestigious 2012 International AIDS Conference (IAC) saw coordinated efforts by sex worker activists in Washington, DC, the IAC host city, and Calcutta, India. Alongside others, sex workers protested the IAC's decision to hold the influential conference in the U.S. because an American travel ban refused entry and visas to "known sex workers" and "known drug users." U.S. sex workers organized their own conferences in Washington, and sex workers outside the U.S. organized in India, where there were no such international travel restrictions. Both cities

streamed live feeds to each other, with "Star Whores" in Washington and the "Freedom Festival" in Calcutta demanding legal change and political support, and calling out stigma, violence, and oppression, via speakers and performances. Sex workers from over 40 countries attended the conference in Calcutta. It was a powerful reminder that exclusion cannot stop marginalized activists.

Coordinating Advocacy Networks

There were two main attempts to coordinate sex workers' rights advocacy in the U.S. in the early 2000s, the Sex Workers Outreach Project and the Desiree Alliance. In 2003, Robyn Few founded the Sex Workers Outreach Project-USA (SWOP-USA), modeling itself on SWOP Australia. As she said in a 2011 video interview, "SWOP was founded because there was nothing else":

At the time there was no social justice network for sex workers, I mean, at all . . . And as I went to look for Margo St. James and Carol Leigh and COYOTE, and the old organizations, and the women who had done of all the uprising and bringing attention to sex workers' rights issues in the '70s, [I] found that the strategies and the ways things had become in the 2000s were quite different.³⁶

Robyn Few wanted to network sex workers to provide support services and outreach efforts in addition to engaging in political advocacy. She and a circle of colleagues re-booted the struggle for sex workers' rights in the United States creating a mechanism for sex workers and allies to organize locally via SWOP chapters connected by a national network. Today there are dozens of SWOP chapters across the country at city and state levels connected under the national SWOP umbrella. A national SWOP Behind Bars provides support and connection for incarcerated sex workers. SWOP is currently the largest sex workers' rights organization in the country. International Day to End Violence Against Sex Workers (every December 17th), founded by SWOP in 2003, continues to be recognized today.

Robyn Few also was part of two of the very first attempts to decriminalize prostitution in the U.S. in the early 2000s. In 2004, SWOP put an initiative to decriminalize prostitution, Measure Q, on the ballot in Berkeley, California, and in 2008, a similar measure appeared on the San Francisco ballot. Prop K specifically laid out what decriminalization would mean in that city: to stop policing prostitution and force the city's police

department to publicly disclose any investigations of its officers for violence against any sex workers, ensure sex workers had the right to report violence to police and have their cases taken seriously by the District Attorney, and stop local law enforcement agencies from seeking or accepted government monies for anti-prostitution programs and trafficking programs that rely on racist profiling.³⁷ Both of these efforts failed but demonstrated the possibilities for legal change at the local level.

Another organization, the Desiree Alliance (DA), was founded in 2005 to bring sex workers and their allies together at a national conference, something that had not been formalized previously. Robyn Few, Carol Leigh, and other leading activists supported the creation of the DA. On its website, DA describes itself as "a coalition of sex workers, health professionals, social scientists, professional sex educators, and their supporting networks working together to improve understanding of the sex industry and its human, social, and political impacts."

The Desiree Alliance acted as conference host and an umbrella non-profit for over 20 sex workers' rights organizations in the United States. There were four national conferences (2006, 2010, 2013, 2016) until new legislation, discussed below, forced the organizers to abandon the conference fearing attendees would be subject to arrests and prosecution on sex trafficking and prostitution-related charges. The meetings revolved around themes like "Re-Visioning Prostitution Policy: Creating Space for Sex Worker Rights and Challenging Criminalization" in 2006, "Working Sex: Power, Practice, and Politics" in 2010, and "The Audacity of Health: Sex Work, Health, and Politics" in 2013. The multi-day conferences hosted around 80 workshops and panels with plenary sessions that included former U.S. Surgeon General Jocelyn Elders and actor and activist Margaret Cho. There were workshops on "know your rights" and how to engage in legislative advocacy at local, national, and transnational levels. For example, a 2010 workshop explored how to challenge a U.S. government anti-prostitution requirement: from 2003 until 2012, any foreign organization or government receiving U.S. aid had to sign a pledge that the organization is opposed to prostitution, and no funds could be used in support of prostitution. It was formally known as the President's Emergency Plan for AIDS Relief (PEPFAR) but is commonly referred to as the "anti-prostitution pledge" or oath. PEPFAR was problematic from a public health perspective: organizations distributed condoms or offered free healthcare to impoverished communities worldwide where some of the constituents receiving aid may have been exchanging sex for money, food, or a place to live. After much lobbying, public educational outreach, and a lawsuit, the pledge was changed in 2012. Now, most U.S. groups do not have to abide by the

pledge (as they were covered by the umbrella entities bringing the lawsuit), but non-U.S.-based organizations must still agree to PEPFAR's restrictions.

The Desiree Alliance now focuses most of its political advocacy on attempts to decriminalize laws against sex work, and to engage in sex-worker inclusive anti-trafficking advocacy. The DA also organizes and supports other events and advocacy to promote community building. Between 2005 and 2010, the organization was led by a two-person co-directorship led by Cris Sardina and Sharmus Outlaw and a loose 40-person leadership group. Sardina, a sex workers' rights and anti-criminalization activist, spoke at the 2018 national Women's March, in host city Las Vegas, Nevada. She started with a pronouncement: "I am a mother, I am a grandmother, I am a great-grandmother," then paused to open her red umbrella, lift it high, and declared, "and I am a sex worker!"³⁸ She was surrounded by sex workers' rights activists who took the stage with her, holding protest signs with slogans like "Sex Work Is Work," "Sex Workers Need Rights, Not Rescue," "We Will Not Be Sacrificed To Make You More Comfortable," and "Sex Workers Are Fighting For an Environment Free of Violence, Crime, and Stigma!"

While DA conferences can no longer ensure that geographically dispersed organizations in the U.S. can come together, other organizations have stepped in. For example, in 2007, the Best Practices Policy Project (BPPP) hosted a three-day leadership conference for sex workers, some of whom had activist experience. The "National Leadership Training Institute" was held in Washington, DC, for sex workers who were historically underrepresented in organizing efforts: transgender, black, Latinx, and undocumented sex workers. BPPP continues to host leadership workshops to develop sex worker leaders for the movement. The trainings and workshops generated new leaders from within the activist ranks to ensure that organizations remain by-and-for sex workers.

While some sex workers seek out or are recruited into leadership programs or activism trainings, others emerge as leaders in response to a dire need. For example, Gizelle Marie, an erotic dancer, organized the first #NYCStripperStrike in 2017, using Snapchat and Instagram, and gained the support of celebrities and other activists alike. Her work reverberated nationally among strip club dancers and sex workers' rights organizers. The strike called attention to the colorism, racism, and sexism that erotic dancers of color, particularly black dancers, experience from management – e.g., sending home workers with braids, giving better shifts to lighter-skinned workers, and allowing bartenders to earn tips dancing behind the bar.

Several sex workers' rights organizations have collaborated to submit reports to the United Nations (in 2010, 2015, and 2020), asking the organization to review how the U.S. not only fails sex workers but actively harms them and violates basic human rights. This is done through the U.N. Human Rights Commission's revised Universal Periodic Review process. Authors of the reports include the DA, BPPP in Washington, SWOP-New York, and the Sexual Rights Initiative, with support from other sex worker rights organizations. The latest report was submitted by a coalition of groups again including BPPP and DA, alongside the Outlaw Project, the NYC-based Black Sex Workers Collective, and the New Jersey chapter of the Red Umbrella Alliance.³⁹

Sex workers' rights organizations and individual activists have also engaged in a wide range of educational outreach efforts, such as writing op-eds online and publishing in sex worker spaces like *Spread* magazine or *Tits-and-Sass*. Activists give public talks at venues from universities to bars. They have used the Internet for networking with each other, including building websites or Instagram and Twitter pages. Finally, groups are engaging in and publishing their own participatory action and community-based research projects, resulting in numerous reports.⁴⁰

Because of the precarious nature of the work as well as the pressures and burn-out typical in social movement organizations, local sex workers' groups often emerge, are active for a while, become dormant, shutter, or change their name or focus. Arguably, such organizations exist in every state and major city, but they may be difficult to find unless you are a worker or ally.⁴¹ Like many rights organizations, these groups ebb and flow in leadership and practices, as needs change, as activists move around, and as external pressures force changing tactics.

Research projects and educational outreach efforts provide important counter-narratives today. They are a highly visible part of the movement, especially in differentiating between sex work and sex trafficking. Even though they are conducted in different cities, the research findings often echo each other – routinely documenting coercive practices and racial and gender discrimination on the part of social service and criminal justice agencies.

The Fight for Decriminalization and Carceral Reform

In response to decades of sex worker rights activism and supporting scholarship, several influential and well-respected human rights organizations

began to reassess their policy on sex work about a decade after the passage of the TVPA in 2000.⁴² Between 2012 and 2015, the World Health Organization, Amnesty International, and the National LGBTQ Taskforce advocated the full decriminalization of prostitution (for sex workers as well as clients and third parties).⁴³ Since then, key rights organizations followed suit including American Civil Liberties Union, Human Rights Watch, World Health Organization, Lambda Legal, Global Alliance Against Traffic in Women, Open Society Foundation, UNAIDS, the Women's March, and several others.⁴⁴ In January 2020, 28 organizations released a report and policy platform on decriminalizing sex work. The report cited a poll finding that most U.S. voters and two-thirds of voters aged 18–44 support decriminalization.⁴⁵ And in March 2021, more than 250 of the world's most respected scientists called on state and local government to fully decriminalize sex work.⁴⁶

The support for full decriminalization by major organizations and increasing public support has prompted a critical shift in legislators' and prosecutors' attitudes toward policies affecting sex workers. Sex workers' rights activists have made progress lobbying for full decriminalization, and for incremental policies like rolling back aspects of policing that are harmful to sex workers, and, recently, stopping the prosecution of sex workers in some places, like New York City. Full decriminalization bills have recently appeared in several states.⁴⁷ Burlington, Vermont's city council unanimously approved a resolution to repeal certain municipal bylaws related to prostitution. Maine and Rhode Island are debating creation of legislative committees to study the impact of law reform. At the federal level, in November 2019, Rep. Ayanna Pressley introduced a resolution in Congress to decriminalize prostitution between consenting adults, though it has not attracted enough support to pass. And in the 2020 presidential election, five Democratic candidates announced their support for decriminalizing prostitution.⁴⁸

Activists have taken different steps toward reducing or removing criminal sanctions in different jurisdictions. In 2014, after over a decade of effort, the Red Umbrella Project NYC and the Sex Workers Project NYC successfully lobbied the state legislature to agree that police should not use the presence of condoms as evidence of intent-to-solicit for some, but not all, prostitution-related charges (Senate Bill S1379). The city of Seattle, Washington, repealed laws criminalizing loitering for prostitution, laws that were disproportionately applied to police black and Latinx trans sex workers. New York (in 2021) and California (in 2022) repealed their loitering-with-intent-to-prostitute statutes. California, Montana, Vermont, and New Hampshire recently passed

immunity laws protecting those who witness or experience violence from being arrested or prosecuted for prostitution. And sex workers' rights groups are lobbying, sometimes successfully, for sex trafficking victims to be able to vacate or erase prostitution-related crimes from their criminal record.

Progress on decriminalization has not been achieved by a unified movement or set of goals. For example, Massachusetts' decriminalization efforts grew out of a coalition between a group led by sex workers who are drug users and a prison abolition group led by formerly incarcerated LGBTQIA+ people and some who had been trafficked.⁴⁹ The repeal of California and New York's loitering-for-prostitution laws were led by coalitions of trans, immigrant, and Latinx sex workers, and backed by a group of state legislators. These and other local organizations forge different coalitions with groups having different policy priorities, focusing on trans rights or reproductive rights, on policing reform or abolition, sentencing reform or juvenile policy, on anti-racism or sexual violence. Clashes based on class or race and disagreements over strategy are not uncommon, but these are not unusual in any large social movement with a history of extreme repression. In recent years there seems to be increasing agreement to disagree, and local wins and popular support seem to be promoting solidarity.⁵⁰

Battles Over the Internet

Partially reacting to growing online interconnective technologies and platforms, end-demand legislation passed the United States Congress in 2018. Like the TVPA, this act was a significant win for anti-prostitution forces. In April of that year, in response to fears that online platforms such as Backpage (a platform to connect sex workers and clients) and Craigslist personal ads were facilitating sex trafficking,⁵¹ the U.S. Congress passed the Stop Enabling Sex Traffickers Act (SESTA) and the Fighting Online Sex Trafficking Act (FOSTA). The statute amended Internet protections and accountability, creating a new federal crime that makes online platforms criminally and civilly liable for any material that promotes or facilitates prostitution and sex trafficking while making no distinction between sex trafficking and consensual sex work: the bills use "prostitution" and "trafficking" interchangeably.

FOSTA/SESTA has had a severe impact on sex workers. Two years after the law's passage, only one prosecution has been initiated under the criminal provision and very few civil lawsuits, but the fear of lawsuits forced

platforms to self-censor, including canceling sex worker accounts. Platforms like Instagram, Twitter, and Google changed their policies to effectively exclude any user believed to be working in the sex trade. Social media platforms have censored and demonetized any form of sexual content. They use algorithms to shadow-ban content, that is, blocking content from being shared or removing content without a user immediately knowing about it. This has cut sex workers off from many of their safety mechanisms: client screening processes, connections with other sex workers, bad-client lists, and methods of payment. They literally cannot find each other anymore, which is important, as a respondent in one study stated, "Everything I know about being safe in sex work is because I was able to speak to other sex workers online."⁵² Many have effectively disappeared from the Internet, and some entered street-based work where they had to start over with building screening and harm-reduction practices. Platforms have censored all kinds of sexual content from art to activism, removing content, blocking users, and closing forums – leaving users with little legal recourse. It has cut off income for online content providers dependent on digital communication.⁵³ A 2020 report based on interviews with sex workers and analysis of the bill's impact concluded, "Barring sex workers from financial technologies and social media is a form of structural violence."⁵⁴

The law has impacted activism. Originally planned for 2018 and co-hosted by SWOP Behind Bars and the TransLatin@ Coalition, a Desiree Alliance conference was rescheduled to 2019 to consider how FOSTA/SESTA would impact their ability to advertise the conference, provide scholarships to help sex workers attend, and bring sex workers together in one place. The conference was canceled with this note added in bright red font on their website:

It is with great sadness and much consideration that Desiree Alliance announces the cancellation of our July 2019 conference *Transcending Borders: Immigration, Migration, and Sex Work*. Due to FOSTA/SESTA enactments, our leadership made the decision that we cannot put our organization and our attendees at risk. We hope you understand our grave concerns and continue to resist every law that exists to harm sex workers! Keep fighting!

There are no national conferences planned for the foreseeable future.

At the same time, like the TVPA before it, FOSTA/SESTA has galvanized a new generation of sex worker activists. Because the law was passed as sex workers' organizations were growing, the statute has ironically

increased the visibility of sex work activism to the public, at least in the short term, and attracted support from sex workers and a large number of allies. Some groups that have traditionally been reluctant to see themselves as "sex workers" – adult content producers and erotic dancers – have allied with those who work in prostitution. Finally, the Woodhull Freedom Foundation filed a federal lawsuit in 2019, challenging the constitutionality of FOSTA/SESTA on behalf of multiple plaintiffs, and the suit is currently winding its way through the courts.

Activists are also facing another threat from banks, who increasingly police Internet content to avoid being sued. OnlyFans, an online platform where individuals can charge patrons a fee for viewing their videos, was considered a safe haven after FOSTA/SESTA was instituted. During the COVID 19 pandemic, a wide range of individuals out of work turned to OnlyFans, dramatically increasing the platform's visibility. In August 2021, OnlyFans announced that because a number of banks were increasingly rejecting their transactions, they would ban sexually explicit content. However, after a week of intense social media campaigning by activists, the platform's messaging changed. In a tweet on August 25, 2021, they shared, "The OnlyFans community would not be what it is today without you," later claiming, "We have secured assurances necessary to support our diverse creator community and have suspended the planned October 1 policy change." The weeklong ban spurred a growth in alternative content creation platforms, blockchain and cryptocurrencies, and illustrated the power of sex workers to fight the proposed ban.⁵⁵ But the events also highlighted a larger trend toward policing sex work through the financial sector. In the past year credit card companies have increasingly refused payments for sexually explicit content on Pornhub and other porn websites, and on other Internet platforms accounts of sex workers have been frozen. These platforms' troubles are examples of how FOSTA/SESTA expands surveillance of "sex trafficking" to more and more sites. Neo-abolitionists are actively lobbying large banks to cut off access to anything looking like sexual commerce, thereby increasing the financial exclusion of already vulnerable sex workers.

The trafficking surveillance net has expanded to a wider range of smartphone and computer technology. Apple recently announced that it will now screen all individual user devices, including iMessage and iCloud accounts for explicit images of children and report such cases to law enforcement. The company claims it will only catch material known to organizations like the National Center for Missing and Exploited Children. But critics are worried the system will be used to detect things other than

child pornography, such as a parent's pictures of their baby in a bathtub or a sex workers' monetized content.⁵⁶ Google, Facebook, YouTube, Microsoft, Adobe, and other platforms already monitor for child pornography as well as other sexual content in the name of fighting sex trafficking. More than 90 organizations from six continents, including the American Civil Liberties Union, the Electronic Frontier Foundation, and the Sex Workers Project of the Urban Justice Center signed a letter urging Apple to abandon the plans to build surveillance capabilities into iPhones, iPads, and other Apple products.⁵⁷

The Internet is an important battleground and sex workers are building allies in that context. In 2019, a bill to assess the health and safety impacts of SESTA/FOSTA was introduced, a bill that was "completely shaped" by sex worker lobbying efforts, according to Rep. Ro Khanna (D-CA). The Safe Sex Worker Study Act was co-sponsored by 17 representatives and three senators.⁵⁸ While this level of support is insufficient to pass the bill at present, support for any sex workers' initiative was unthinkable in the U.S. Congress just a decade ago.

Conclusion

What does all this mean for sex worker rights today? The "movement" remains loosely structured, with a wide variety of organizations. Some groups focus on service provision, some on advocacy, and increasingly on lobbying. Today more than ever, the sex worker rights movement is increasingly recognized as an important player in the battle for broader change in the legal system, around racial justice, immigrant rights, and workers' rights generally. Yet advocates still face challenges. Their organizations, especially in the U.S., do not have large sources of cash or access to government funding; both domestically and internationally, sex worker organizations have far fewer resources at their disposal than their well-funded, government-supported, and influential opponents who seek the complete elimination of all forms of sexual labor.

There is always a danger of movement organizations professionalizing in ways that stymie radical change. Yet research on the civic-engagement dynamics of two sex workers' groups concluded that "social movement borne non-profits" are uniquely situated to maintain an activist edge while in a professionalized organizational setting.⁵⁹ Like other social movements with a history of extreme repression, sex worker organizations are diverse in members' class, race, ethnicity, gender identity, gender expression, disability, and citizenship status. Such diversity can produce disagreements on

strategy and tactics and can sometimes jeopardize coherent, united action. Organizations disagree with each other on best practices, who gets funding, the role of allies, and where to focus their activist energies – similar to and intersecting with the fractured history of LGBTQ+ activism in the United States, where a focus on freedom to marry and love overtook original demands for economic justice and an end to police mistreatment. Sex worker advocacy is no different and some disagreements have become especially acute as the movement gains visibility, largely spurred by social media.

On the other hand, alongside continued conversations about centering the most marginalized sex workers and ensuring that reforms benefit all, activists' diversity has not prevented some recent victories. While the U.S. sex workers' rights movement continues to face many obstacles, it appears to be gaining steam along with its global comrades. Movement organizations appear to be closer than ever to achieving recognition, rights, and legislative goals. If history is a lesson, the sex workers' movement, like most grassroots campaigns, will continue to face obstacles, both internally in negotiating internal diversity and externally against a well-funded and organized opposition. But the movement is a clear example of what activism looks like in the 21st century.

Notes

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16

Criminalization, Decriminalization, and Legalization

Ronald Weitzer

This chapter compares alternative policy models. Rather than simply declaring one model superior to the others in the abstract, as many analysts do, it is imperative that scholars and policy makers identify what works best in practice in advancing the interests and needs of all stakeholders and participants involved in sex for sale. In assessing the available evidence, I will argue that only one of these models is consistent with a set of "best practices" regarding health, safety, and rights.

Legal reform can occur through legislative action, a court ruling, or a ballot measure presented to the public. Legislation is the most common strategy for reform in the prostitution sphere. Legal challenges in the courts, by contrast, have rarely been tried. Although this route has not been successful in the United States, it has in Canada.¹ In 2013 the Supreme Court of Canada ruled, in a 9–0 decision, that the country's three prostitution laws were unconstitutional.² At issue were statutes prohibiting communicating for the purpose of prostitution, operating out of one's private premises or a brothel, and third-party profiting ("living on the avails") from prostitution. The applicants argued that the laws infringed on sex workers' safety by forcing them to work covertly, and the court agreed that the laws were in violation of the right to "security of the person" in the Charter of Rights. The following year, Parliament passed a law – the Protection of Communities and Exploited Persons Act – criminalizing those